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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,076	06/30/2003	Brian M. Novack	P23663	7858

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EXAMINER	
AGDEPPA, HECTOR A	
ART UNIT	**PAPER NUMBER**
2642	

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/608,076	NOVACK, BRIAN M.	
	Examiner	Art Unit	
	Hector A. Agdeppa	2642	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *23 December 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. Applicant has not included a SUMMARY OF THE INVENTION portion in the specification. Although not specifically required, the suggested format of the specification is as follows:

Content of Specification

(a) Title of the Invention: See 37 CFR 1.72(a) and MPEP § 606. The title of the invention should be placed at the top of the first page of the specification unless the title is provided in an application data sheet. The title of the invention should be brief but technically accurate and descriptive, preferably from two to seven words may not contain more than 500 characters.

(b) Cross-References to Related Applications: See 37 CFR 1.78 and MPEP § 201.11.

(c) Statement Regarding Federally Sponsored Research and Development: See MPEP § 310.

(d) Incorporation-By-Reference Of Material Submitted On a Compact Disc: The specification is required to include an incorporation-by-reference of electronic documents that are to become part of the permanent United States Patent and Trademark Office records in the file of a patent application. See 37 CFR 1.52(e) and MPEP § 608.05. Computer program listings (37 CFR 1.96(c)), "Sequence Listings" (37 CFR 1.821(c)), and tables having more than 50 pages of text were permitted as electronic documents on compact discs beginning on September 8, 2000.

Or alternatively, Reference to a "Microfiche Appendix": See MPEP § 608.05(a). "Microfiche Appendices" were accepted by the Office until March 1, 2001.

(e) Background of the Invention: See MPEP § 608.01(c). The specification should set forth the Background of the Invention in two parts:

(1) Field of the Invention: A statement of the field of art to which the invention pertains. This statement may include a paraphrasing of the applicable U.S. patent classification definitions of the subject matter of the claimed invention. This item may also be titled "Technical Field."

(2) Description of the Related Art including information disclosed under 37 CFR 1.97 and 37 CFR 1.98: A description of the related art known to the applicant and including, if applicable, references to specific related art and problems involved in the prior art which are solved by the applicant's invention. This item may also be titled "Background Art."

(f) Brief Summary of the Invention: See MPEP § 608.01(d). A brief summary or general statement of the invention as set forth in 37 CFR 1.73. The summary is separate and distinct from the abstract and is directed toward the invention rather than the disclosure as a whole. The summary may point out the advantages of the invention or how it solves problems previously existent in the prior art (and preferably indicated in the Background of the Invention). In chemical cases it should point out in general terms the utility of the invention. If possible, the nature and gist of the invention or the inventive concept should be set forth. Objects of the invention should be treated briefly and only to the extent that they contribute to an understanding of the invention.

(g) Brief Description of the Several Views of the Drawing(s): See MPEP § 608.01(f). A reference to and brief description of the drawing(s) as set forth in 37 CFR 1.74.

(h) Detailed Description of the Invention: See MPEP § 608.01(g). A description of the preferred embodiment(s) of the invention as required in 37 CFR 1.71. The description should be as short and specific as is necessary to describe the invention adequately and accurately. Where elements or groups of elements, compounds, and processes, which are conventional and generally widely known in the field of the invention described and their exact nature or type is not necessary for an understanding and use of the invention by a person skilled in the art, they should not be described in detail. However, where particularly complicated subject matter is involved or where the elements, compounds, or processes may not be commonly or widely known in the field, the specification should refer to another patent or readily available publication which adequately describes the subject matter.

(i) Claim or Claims: See 37 CFR 1.75 and MPEP § 608.01(m). The claim or claims must commence on separate sheet or electronic page (37 CFR

1.52(b)(3)). Where a claim sets forth a plurality of elements or steps, each element or step of the claim should be separated by a line indentation. There may be plural indentations to further segregate subcombinations or related steps. See 37 CFR 1.75 and MPEP § 608.01(i)-(p).

(j) Abstract of the Disclosure: See MPEP § 608.01(f). A brief narrative of the disclosure as a whole in a single paragraph of 150 words or less commencing on a separate sheet following the claims. In an international application which has entered the national stage (37 CFR 1.491(b)), the applicant need not submit an abstract commencing on a separate sheet if an abstract was published with the international application under PCT Article 21. The abstract that appears on the cover page of the pamphlet published by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) is the abstract that will be used by the USPTO. See MPEP § 1893.03(e).

(k) Sequence Listing. See 37 CFR 1.821-1.825 and MPEP §§ 2421-2431. The requirement for a sequence listing applies to all sequences disclosed in a given application, whether the sequences are claimed or not. See MPEP § 2421.02.

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1 – 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 5,838,768 (Sumar et al.) in view of US 6445782 (Elfe et al.)

As to claims 1, 6, 7, 14, and 19, Sumar et al. teaches receiving a call from a subscriber requesting a service and a first IP 911 interacting with the subscriber. Sumar et al. further teaches that if is necessary to go to a second IP 912, it is done, wherein IP 912 interacts with IP 911. (Col. 12, lines 24 – 65 of Sumar et al.)

Note that while Sumar et al. teaches the sequential forwarding and processing of a call from IP 911 to IP 912 to a delivery IP 913, Sumar et al. also contemplates that any or all of these IPs, in any combination, may be implemented or reside together or apart, thus meaning that the functionality of the delivery IP 913 could be in IP 912, thus limiting the scenario to a first and second IP as claimed. Moreover, in another scenario, a subscriber in Sumar et al. may be requesting mailbox information or messages and therefore, instead of using delivery IP 913, the information would be sent back to IP 911, where the subscriber was making his/her request from. (Col. 16, lines 42 – 54, Col. 13, lines 25 – 57, Col. 14, line 31 – Col. 18, line 44 of Sumar et al.)

Note that the claimed receiver, determiner, and initiator are all inherent inasmuch as nothing can commence if a call is not received and of course, a receiver of some sort must be present in order to receive. The same arguments are applicable to the determiner and initiator.

What Sumar et al. does not teach is an IP having the determiner functionality nor the initiator functionality to contact a second IP.

Instead, Sumar et al. teaches that an SCP 901, in contact w/ IP 911, 912, and 913 determines that it is necessary for conversion IP 912 to fetch a message/information from IP 911, and that instead of IP 911 contacting IP 912, it is IP 912 that contacts IP 911. (Col. 12, lines 24 – 65 of Sumar et al.)

However, as is clearly seen in this discussion, the functionality of the claimed invention is still taught by Sumar et al. and it would have been obvious for one of ordinary skill in the art at the time the invention was made to have given a first IP 911 the determiner and initiator functionalities without going through an intermediate SCP 901 element.

First, the end result of IP 911 going through SCP 901 which determines that an exchange of messages / information with IP 912 is necessary is exactly the same as if IP 911 directly determined that contact with IP 912 was necessary. Also, whether it is the first IP 911 that contacts second IP 912 or vice versa, again, the end result of both IPs being in communication is effected.

Second, it is notoriously old and well known in the telephony arts to move elements and their functionality around within a system to meet various design preferences. Such is especially true in the advanced intelligent network (AIN) arts as taught by Elfe et al. (Col. 7, lines 11 – 25 of Elfe et al.)

As to claims 2, 8, 15, and 22, Sumar et al. teaches that the interaction between the IVRs/IPs and either the end user or other IVR/IP consists of dual tone multifrequency (DTMF) signals, and audio in the form of voice and speech recognition, etc. (Col. 8, lines 31 – 39, Col. 10, lines 8 – 18 of Sumar et al.)

Note that it is inherent in any IVR/IP system that it is not an actual person speaking, hence the IVR system. Therefore, any pre-recorded speech would also be computer generated. Even if such speech were the recorded speech of an actual human voice, again, because Ball et al. teaches implementing in effect, a logical/web-based IVR/IP, that recorded speech must be converted in digital/computerized data. Even in a processor-based IVR/IP it would be rare, if at all possible, that a taped recording was used to play the pre-recorded speech. But if that were the case, it certainly would have been obvious for one of ordinary skill in the art at the time the invention was made to have used computerized speech in lieu of the proliferation of computer-use and processor-based system elements in the telephony arts.

As to claims 3, 4, 9 – 12, 16, 17, 20, and 21, Sumar et al. further teaches that the interaction between IP 911 and IP 912 comprises IP 912 retrieving the information gleaned and stored by IP 911 and further processing it. (Col. 12, line 35 – Col. 16, line 67 of Sumar et al.) Finally, after IP 912 has performed its function(s), the call or dialogue with IP 912 is closed or disconnected. (Col. 13, lines 25 – 35 of Sumar et al.)

Note again, that because of the functionality taught by Sumar et al., the claimed creator and retriever are inherent.

Moreover, the claimed session information database is inherent in Sumar et al. because IP 911 has to store the above-discussed information in some storage/memory means, any of which would read on a database.

As to claim 5, Sumar et al. teaches that voice over internet protocol communications is contemplated, in which case, the claimed calling party would

comprise a computer processor inasmuch as a computer or some computer processor-based device would be needed to effect such communications.

As to claims 13 and 18, see Fig. 9 of Sumar et al. Also note the rejection of claims 3, 4, 9 – 12, 16, 17, 20, and 21 wherein Sumar et al. was discussed regarding the closing of dialogue between IP 912 and the system. Before that dialogue is closed, the subscriber, IP 911, and IP 912 are in communication/connected. Therefore, a three way call is effected, wherein the connection between the subscriber and IP 911 is bridged with the connection between IP 911 and IP 912.

Claim Rejections - 35 USC § 102 and Claim Rejections - 35 USC § 103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1, 2, 6, 7, 8, 14, 15, 19, and 22 rejected under 35 U.S.C. 102(e) as anticipated by 6,600,736 (Ball et al.) or in the alternative, under 35 U.S.C. 103(a) as obvious over US 6,600,736 (Ball et al.) in view of US 5,838,768 (Sumar et al.)

As to claims 1, 6, 7, 14, and 19, Ball et al. teaches system and method for web-based interactive voice response (IVR) services wherein a first IVR receives a call from an end user, read as the claimed calling party, and the end user and first IVR interact, i.e., requesting certain input such as zip code, PIN, username, etc. (Abstract, Col. 4, line 64 – Col. 5, line 48, Col. 7, lines 7 - 53 of Ball et al.) If the end user chooses to respond to an advertisement or offer, or chooses to access another service which requires a service or processing from a second IVR, the system of Ball et al. establishes a call connection with that second IVR. Furthermore the end user may interact in additional ways with the second IVR. Ultimately the desired telecommunications service is provided to the end user. ((Col. 7, line 54 – Col. 9, line 32 of Ball et al.)

Note that the claimed receiver, determiner, and initiator are all inherent even if not explicitly named in Ball et al., because as see from above, the functionality of Ball et al. teaches that in some format or means, these claimed elements must be present.

Also note that IVRs are sometimes considered to be analogous to intelligent peripherals (IP) or at the least, IVRs are implemented as or on an IP platform.

Also note that IPs are processor-based or software-based elements. In either case, source code and computer-readable mediums for storing such code or programs are used to program and ultimately control them. Therefore, because the claimed

source codes and computer-readable medium claims mirror the functionality and elements discussed above, Ball et al. inherently reads on such limitations as well.

Interpreted differently, the IVR web service taught by Ball et al. could be argued as being a virtual IVR or logical instead of a physical IVR implemented as or on a physical IP platform. However, Sumar et al. teaches that it is old and well known to implement IVR/IP elements both physically and logically. (Col. 7, lines 37 – 44, Col. 8, lines 31 – 39, Col. 10, lines 8 – 19 of Sumar et al.) Therefore, it would have been obvious for one of ordinary skill in the art at the time the invention was made to have used either physical or logical IVRs/IPs inasmuch as both are viable options in systems that provide IVR/IP functionality. Obviously, implementing an element in logical form is usually cheaper and more easily implemented because there are no physical constraints. In fact, as Ball et al. teaches, such is a desired manner or taking advantage of the Internet environment. (Col. 1, line 15 – Col. 4, line 61 of Ball et al.)

As to claims 2, 8, 15, and 22, Ball et al. teaches that the interaction between the IVRs/IPs and either the end user or other IVR/IP consists of dual tone multifrequency (DTMF) signals, and audio in the form of voice and speech recognition, etc. Note as well that Ball et al. teaches pre-recorded speech. (Col. 2, lines 48 – 54, Col. 8, lines 13 – 33 of Ball et al.)

Note that it is inherent in any IVR/IP system that it is not an actual person speaking, hence the IVR system. Therefore, any pre-recorded speech would also be computer generated. Even if such speech were the recorded speech of an actual human voice, again, because Ball et al. teaches implementing in effect, a logical/web-

based IVR/IP, that recorded speech must be converted in digital/computerized data. Even in a processor-based IVR/IP it would be rare, if at all possible, that a taped recording was used to play the pre-recorded speech. But if that were the case, it certainly would have been obvious for one of ordinary skill in the art at the time the invention was made to have used computerized speech in lieu of the proliferation of computer-use and processor-based system elements in the telephony arts.

4. Claims 3 – 5, 9 – 13, 16 – 18, 20, and 21 rejected under 35 U.S.C. 103(a) as being unpatentable over US 6,600,736 (Ball et al.) in view of US 5,838,768 (Sumar et al.)

As to claims 3, 4, 9 – 12, 16, 17, 20, and 21, Ball et al. and Sumar et al. have been discussed above.

Ball et al. further teaches that the information inputted by the end user is stored or included and transferred from the first IVR to the second IVR. The preferred embodiments taught by Ball et al. involve Internet cookies or URL encoding. However, Ball et al. contemplates that information transfer may be made by any other information transference means. (Col. 8, line 34 – Col. 11, line 24 of Ball et al.) Merely receiving input and storing that input for access by a second element is extremely old and well known in the telephony arts. For example, traditional ACD/call center systems which employ IVRs/IPs, generally use such means so that an agent associated with a second call center can access the information gleaned from an IVR/IP or agent associated with a first call center from which the call was transferred for forwarded due to load balancing

needs, because the second agent was needed to service the calling party, because the calling party was mis-routed to the first agent, etc. The motivation for using URL encoding or Internet cookies is that no separate storage space or means is needed for the information, thus reducing system cost. Moreover, because no time is taken to store and subsequently retrieve such information, speed of operation is enhanced and resources are saved. However, there is no reason why one of ordinary skill in the art at the time the invention was made could not have chosen the traditional method of information transfer.

Alternatively, Sumar et al. further teaches a system, like Ball et al., wherein multiple IVRs/IPs are used to service a subscriber, wherein the subscriber, requesting a certain service, interacts with a first IP, 911 and certain information is gleaned and stored. Thereafter, a second IP, 912 retrieves that information and further processes it, via an SCP 901. (Col. 12, line 35 – Col. 16, line 67 of Sumar et al.) Although Sumar et al. teaches the involvement of an intermediate system element SCP 901 and that IP 912 contacts IP 911, the end effect is analogous if not exactly that of the claimed invention. Therefore, it would have been obvious for one of ordinary skill to apply the operation discussed above regarding Ball et al. in the AIN/IP environment taught by Sumar et al. inasmuch as this would only be a modification of preference or design choice again, not affecting the final operative outcome.

Finally, after IP 912 has performed its function(s), the call or dialogue with IP 912 is closed or disconnected. (Col. 13, lines 25 – 35 of Sumar et al.) It would have again been obvious for one of ordinary skill in the art at the time the invention was made to

have implemented such a storage and retrieval method inasmuch as it is simply one of a plurality of well known methods for storing and retrieving information in an IVR/IP environment.

Finally, note that while Sumar et al. teaches the sequential forwarding and processing of a call from IP 911 to IP 912 to a delivery IP 913, Sumar et al. also contemplates that any or all of these IPs, in any combination, may be implemented or reside together or apart, thus meaning that the functionality of the delivery IP 913 could be in IP 912, thus limiting the scenario to a first and second IP as claimed. Moreover, in another scenario, a subscriber in Sumar et al. may be requesting mailbox information or messages and therefore, instead of using delivery IP 913, the information would be sent back to IP 911, where the subscriber was making his/her request from. (Col. 16, lines 42 – 54, Col. 13, lines 25 – 57, Col. 14, line 31 – Col. 18, line 44 of Sumar et al.)

Note again, that because of the functionality taught by both Ball et al. and Sumar et al., the claimed creator and retriever are inherent. Moreover, the claimed session information database is inherent in Sumar et al. because IP 911 has to store the above-discussed information in some storage/memory means, any of which would read on a database.

As to claim 5, Sumar et al. teaches that voice over internet protocol communications is contemplated, in which case, the claimed calling party would comprise a computer processor inasmuch as a computer or some computer processor-based device would be needed to effect such communications.

As to claims 13 and 18, see Fig. 9 of Sumar et al. Also note the rejection of claims 3, 4, 9 – 12, 16, 17, 20, and 21 wherein Sumar et al. was discussed regarding the closing of dialogue between IP 912 and the system. Before that dialogue is closed, the subscriber, IP 911, and IP 912 are in communication/connected. Therefore, a three way call is effected, wherein the connection between the subscriber and IP 911 is bridged with the connection between IP 911 and IP 912.

Response to Arguments

5. Applicant's arguments with respect to claims 1 – 22 previously rejected under 35 USC 102 under Sumar et al. have been considered but are moot in view of the new ground(s) of rejection.

6. Applicant's arguments with respect to claims 1 – 22 previously rejected under 35 USC 102 over Ball et al. and 35 USC 103 over Ball et al. in view of Sumar et al. have been fully considered but they are not persuasive.

Ball et al. clearly teaches transferring information and the entire communications, whether it be continued webpage interaction or voice interaction, from any of a first server/IP/IVR 203, 205, 208, to any of a second server/IP/IVR 205, 208, 203. Whether it be the brokerage service that needs to be continued on another server or different weather information described by Ball et al., IVR services may be employed at both servers. (Col. 7, line 10 – Col. 9, line 32 of Ball et al.) In fact, Ball et al. explicitly teaches a caller being transferred from a first IVR service to a second IVR service,

thereby rendering applicant's argument that IP server 205 for example, is the only IVR provider moot. (Col. 9, line 33 – Col. 11, line 37 of Ball et al.)

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hector A. Agdeppa whose telephone number is 571-272-7480. The examiner can normally be reached on Mon thru Fri 9:30am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ahmad F. Matar can be reached on 571-272-7488. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hector A. Agdeppa
Examiner
Art Unit 2642

H.A.A.
April 27, 2005

HECTOR A. AGDEPPA
PATENT EXAMINER